

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 622 of 1987

The Commissioner of Income Tax ... Applicant.

vs.

Shri K. M. Powvalla ... Respondent

Mr. Ashok Katangale, Sr. Counsel with Mr. D.A. Dubey i/b. K.C.
Sidhwa for Applicant

Mr. J. D. Mistry i/b. Crawford Bailey & Co.,
for Respondent.

CORAM: V. C. DAGA AND A. S. AGUIAR JJ.Date: 19th July, 2005.P. C.:

1. By this reference under section 256 (1) of the Income Tax Act, 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this court:

“1. Whether on the facts and circumstances of the case, the Tribunal was correct in law in holding that charges payable to the society on account of security, common lighting, common garden etc., is allowable as a deduction from the annual letting value adopted on the basis of Municipal Rateable value in computing income from self – occupied property?

2. Whether on the facts and circumstances of the case, the Tribunal was correct in law in deducting a sum other

than taxes levied by a local authority to arrive at the annual letting value in terms of section 23(1) read with the first proviso to it and section 23(2)(1) of the Income Tax Act, 1961?”

3. Heard learned counsel for both sides. Perused reference proceedings.
4. For the reasons recorded by us in our judgment dated 1st July 2005 passed in Income Tax Reference No. 397 of 1988 (**C.I.T. vs. M/s. Pithwa Engg. Works**), wherein we have relied upon decision of this court in the case of **Commissioner of Income-tax v/s. Camco Colour Co.**, reported in ITR Vol. 254 (2002), page 565 we do not think it necessary to answer the reference made to this Court for the Assessment Years 1976-77 and 1977-78, having negligible tax effect. Accordingly, reference stands returned unanswered with no order as to costs.

(A. S. AGUIAR J.)

(V. C. DAGA J.)